

**Notice of Allowability**

Application No.	Applicant(s)	
09/848,771	ITO ET AL.	
Examiner	Art Unit	
BJ Forman	1634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to Supplemental Amendment filed 13 April 2004.
2.  The allowed claim(s) is/are 4,5 and 8-11.
3.  The drawings filed on 03 May 2001 and 14 January 2003 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftperson's Patent Drawing Review ( PTO-948) attached  
1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 4/04
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date 4/04, 5/04 .
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

*BJ FORMAN, PH.D*  
**BJ FORMAN, PH.D** BJ Forman  
**PRIMARY EXAMINER** Primary Examiner  
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**ALLOWANCE**

***Status of the Claims***

1. This action is in response to an Interview between Applicant and Examiner on 8 April 2004 and papers filed 13 April 2004 in which claims 4 and 11 were amended. The amendments have been thoroughly reviewed and entered.

The previous rejections in the Office Action dated 28 August 2003 are withdrawn in view of the amendments. The amendments place the pending claims in condition for allowance.

Claims 4-5 and 8-11 are in condition for allowance.

**EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Juan Marquez on 20 May 2004.

- a. Claim 4, line 7, replace "injecting" with --- ejecting---.
- b. Claim 4, line 7, replace "injection" with --- ejection---.
- c. Claim 9, line 12, replace "injection" with --- ejection---.
- d. Change the title to --- PROCESS FOR PRODUCING A BIOCHIP ---- .

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### **REASONS FOR ALLOWANCE**

3. The following is an examiner's statement of reasons for allowance: The instant claims are drawn to a method of producing a biochip and require putting three solutions into an inkjet device. The solutions are defined as having differing specific gravities so as not to mix within the inkjet and includes an initial adjustment solution having the larger specific gravity. The method requires repeatedly ejecting the adjusting solution until the amount ejected is stable and the adjusting solution is used up. The closest prior art Hirota (U.S. Patent No. 6,656,432) teaches ejecting a buffer solution from the inkjet prior to ejecting the sample. And they teach their inkjet detects a change in specific gravity and viscosity to determine when the buffer is exhausted. However, they do not teach or suggest putting three solutions of differing specific gravity into the inkjet. Nor do they teach or suggest ejecting an adjustment solution until the amount ejected is stable as instantly claimed. Hence, the prior art does not teach or suggest the instant invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### **Conclusion**

4. Claims 4-5 and 8-11 are allowed.
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BJ Forman whose telephone number is (571) 272-0741. The examiner can normally be reached on 6:00 TO 3:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (571) 272-0782. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BJ Forman, Ph.D.  
Primary Examiner  
Art Unit: 1634  
May 20, 2004

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BJ FORMAN, PH.D.  
PRIMARY EXAMINER